



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT :

V.

GREATER NEW HAVEN WATER
POLLUTION CONTROL AUTHORITY :

CONSENT ORDER

A. With the agreement of the Greater New Haven Water Pollution Control Authority (GNHWPCA), the Commissioner of Environmental Protection (the "Commissioner") finds:

1. The Greater New Haven Water Pollution Control Authority ("Respondent") owns and operates a sanitary sewerage system, including a sewage treatment facility known as the Greater New Haven Water Pollution Control Facility, but not including the municipal stormwater sewer system, and discharges treated sanitary sewage under the terms and conditions of NPDES Wastewater Discharge Permit No. CT0100366.
2. The Respondent maintains a sewerage system, which includes sewers that convey both stormwater and sanitary sewage ("combined sewers"). During increased flow conditions associated with wet weather events, such combined sewers discharge sewage to the waters of the state at certain locations ("combined sewer overflows" ("CSO")) in accordance with its permits. The Respondent has closed 3 combined sewer overflow locations and currently has 24 permitted active combined sewer overflow locations within their collection system.
3. The United States Environmental Protection Agency (EPA) has published the *Combined Sewer Overflow Control Policy, April 1994* which requires compliance with the implementation of the "Nine Minimum Controls" and development of a "Long-Term Combined Sewer Overflow Control Plan".
4. The City of New Haven and the New Haven Water Pollution Control Authority submitted to the Commissioner a report entitled "Final Report, City of New Haven Long-Term Combined Sewer Overflow Control Plan, April 2001" by CH2M Hill.
5. On March 23, 2003, the Commissioner approved the report referenced in paragraph A.4 above.
6. Respondent has completed the following combined sewer overflow control projects during the period 2005 to 2008: construction of the Truman storage tank, Interstate 95/Woodward Avenue system reconstruction, and sewer line rehabilitation projects in Morris Cove, Lower Shepard Brook and Upper Thorpe Drive sewersheds. By virtue of this work, pollution of the waters of the state has been reduced.

HART1-1542704-12

7. On August 29, 2005, the Respondent entered into a cost-sharing agreement with the City of New Haven to share the costs of combined sewer overflow projects in the amount of sixty percent (60%) by the Respondent and forty percent (40%) by the City of New Haven.
 8. On or around 2005, the Respondent entered into an asset purchase agreement with the City of New Haven to purchase the water pollution control facility and sanitary sewer collection system, including that portion that conveys combined sewerage; and assigned certain liabilities related thereto to the Respondent.
 9. The Respondent is responsible for maintaining facilities or conditions which facilities or conditions can reasonably be expected to create a source of pollution to the waters of the state.
- B. The Commissioner, acting under Sections 22a-6, 22a-424, 22a-425, 22a-427 and 22a-428 of the Connecticut General Statutes, and with the agreement of the Respondent, orders the Respondent as follows:
1. The Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this order is fully complied with, and, within ten days after retaining any consultant other than the one(s) originally identified under this paragraph, the Respondent shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be qualified professional engineers licensed to practice in Connecticut and shall be acceptable to the Commissioner. The Respondent shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - a. Respondent has retained CH2M HILL to prepare a facilities plan which shall consist of the review and identification of measures for capital improvements conducted to date and planned for the Respondent's facilities to implement (i) the denitrification project at the East Shore facility, (ii) other related wastewater infrastructure, and (iii) the *Long-Term CSO Control Plan* (the "Facility Plan"). The proposed scope of services for such Facility Plan is attached hereto as Appendix A.
 - b. Respondent has retained Malcolm Pirnie, Inc. to prepare an affordability study described below. The proposed scope of services for such Affordability Study is attached hereto as Appendix B.
 2. Within six months from the date of the Commissioner's execution of this consent order, the Respondent shall submit for the review and approval of the Commissioner: (1) the affordability study prepared in accordance with USEPA criteria including "Interim Economic Guidance for Water Quality Standards, USEPA-823-B-95-002, March 1995 (the "Affordability Study") described in paragraph B.1.b. above and, (2) the Facility Plan described in paragraph B.1.a. above.
 3. Within three months from the date of the Commissioner's approval of the Respondent's Affordability Study and Facility Plan, the Respondent shall submit, for the Commissioner's review and approval, a plan for funding the Facility Plan capital improvements (Capital Improvement Funding Plan or CIFP) in accordance with the Respondent's Bylaws and with a recommended schedule that reflects the Affordability Study. The CIFP shall set forth an

annual unit charge per CCF to be available from the Respondent's sewer use rate for debt service, debt service reserve fund and costs for capital projects, all for implementation of the Facility Plan. Costs shall include construction costs, related planning, design and construction engineering services, and other directly related project costs. The Respondent shall, subject to the Long-Term CSO Control Plan Update as set forth in Section B.5 hereof and the Affordability Study, annually increase the annual unit charge in a like amount per CCF until such time as the capital improvements in the Facility Plan have been constructed. Both the Commissioner and the Respondent recognize that the rate of new construction contracts will vary each year depending upon the availability of Clean Water Funds, funds from other sources and the long-term borrowing rates of the Respondent. In the event that state or federal grants are not available for such projects, the Respondents may request that the DEP approve an extension of any proposed schedule for capital expenditures.

4. The Facility Plan capital improvements and the CIFP shall constitute an update to the LTCP. On or before January 1 of each year during the term of this consent order the Respondent shall provide a list of specific construction contracts for the next two consecutive years. The "Two Year Bid Schedule" shall list: the specific CSOs related improvement(s), estimated costs, reasons for scheduling as proposed, specified construction contract bid dates, proposed construction completion dates, and an estimated reduction of the total annual CSOs volume. The Two Year Bid Schedule shall be based upon the updated LTCP.
5. Project Concept Reviews. The Respondent shall submit a *Long-Term CSO Control Plan Update* describing the revised project concept to the Commissioner within three months of the Commissioner's approval of both of the Affordability Study and Facility Plan, and no later than every five years thereafter until the recommended and approved *Long-Term CSO Control Plan* improvements as approved are constructed. The scope of each such Update shall be submitted by the Respondent for the Commissioner's review and approval, at least three months prior to the due date of each such Update. The Long-Term Control Plan Update shall also incorporate the results of the Affordability Study including any amendments to such study. Approval of the Long-Term CSO Control Plan Update by the Commissioner shall authorize implementation of any recommended revisions to the LTCP.
6. Progress reports. On or before the last day of June of each year after issuance of this order and continuing until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner, the Respondent shall submit a progress report to the Commissioner describing the actions which the Respondent has taken to comply with this order to date.
7. Full compliance. The Respondent shall not be considered in full compliance with this order until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner.
8. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within sixty days of the Commissioner's notice of deficiencies. In approving any document or other action under this order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or

modifications as the Commissioner deems necessary to carry out the purposes of this order. Nothing in this paragraph shall excuse noncompliance or delay.

9. Definitions. As used in this order, "Commissioner" means the Commissioner or an agent of the Commissioner.
10. Dates. The date of submission to the Commissioner of any document required by this order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this order, the word "day" as used in this order means calendar day. Any document or action which is required by this order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
11. Notification of noncompliance. In the event that the Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this order or of any document required hereunder, the Respondent shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this order shall be signed by a principal executive officer or ranking elected official as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
13. Noncompliance. Failure to comply with this order may subject the Respondent to an injunction and penalties under Chapters 439 or 446k of the Connecticut General Statutes.
14. False statements. Any false statement in any information submitted pursuant to this order may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
15. Notice of transfer; liability of the Respondent and others. Until the Respondent has fully complied with this order, the Respondent shall notify the Commissioner in writing no later

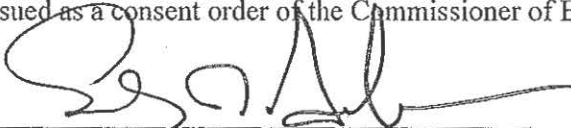
than fifteen days after transferring all or any portion of the operations which are the subject of this order, the site or the business, or obtaining a new mailing or location address. The Respondent's obligations under this order shall not be affected by the passage of title to any property to any other person or Respondent. Any future owner of the site may be subject to the issuance of an order from the Commissioner.

16. Commissioner's powers. Nothing in this order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by the Respondent pursuant to this order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondent to undertake further investigation or further action to prevent or abate pollution.
17. The Respondent's obligations under law. Nothing in this order shall relieve the Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondent pursuant to this order will result in compliance or prevent or abate pollution.
19. No effect on rights of other persons. This order shall neither create nor affect any rights of persons who or municipalities which are not parties to this order.
20. Notice to Commissioner of changes. Within fifteen days of the date the Respondent becomes aware of a change in any information submitted to the Commissioner under this order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondent shall submit the correct or omitted information to the Commissioner.
21. Submission of documents. Any document required to be submitted to the Commissioner under this order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. George V. Hicks, P.E.
Department of Environmental Protection
Water Management Bureau
Planning & Standards Division
79 Elm Street
Hartford, Connecticut 06106-5127

The Greater New Haven Water Pollution Control Authority consents to the issuance of this consent order without further notice. The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Greater New Haven Water Pollution Control Authority to the terms and conditions of the consent order.

Issued as a consent order of the Commissioner of Environmental Protection on July 1, 2009.



Sidney J. Holbrook,
Interim Executive Director
Greater New Haven Water Pollution
Control Authority



Amy Marella
Acting Commissioner
Department of Environmental Protection

ORDER NO. WC 5509
LIMIT _____
DEP/WPC NO. _____
DISCHARGE CODE _____

